

From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

To:

see form PCT/ISA/220

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY
(PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/GB2005/001158

International filing date (day/month/year)
23.03.2005

Priority date (day/month/year)
23.03.2004

International Patent Classification (IPC) or both national classification and IPC
A61F15/02, B26B15/00

Applicant
ROSS WARK MEDICAL LIMITED

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☒ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☒ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☒ Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1 bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



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Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 - ☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 - ☐ a sequence listing
 - ☐ table(s) related to the sequence listing
 - b. format of material:
 - ☐ in written format
 - ☐ in computer readable form
 - c. time of filing/furnishing:
 - ☐ contained in the international application as filed.
 - ☐ filed together with the international application in computer readable form.
 - ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

Box No. II Priority

1. ☒ The validity of the priority claim has not been considered because the International Searching Authority does not have in its possession a copy of the earlier application whose priority has been claimed or, where required, a translation of that earlier application. This opinion has nevertheless been established on the assumption that the relevant date (Rules 43*bis*.1 and 64.1) is the claimed priority date.
2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43*bis*.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.
3. Additional observations, if necessary:

Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of:

☐ the entire international application,

☒ claims Nos. 41

because:

☐ the said international application, or the said claims Nos. relate to the following subject matter which does not require an international preliminary examination (*specify*):

☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. are so unclear that no meaningful opinion could be formed (*specify*):

☐ the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.

☒ no international search report has been established for the whole application or for said claims Nos. 41

☐ the nucleotide and/or amino acid sequence listing does not comply with the standard provided for in Annex C of the Administrative Instructions in that:

the written form

☐ has not been furnished

☐ does not comply with the standard

the computer readable form

☐ has not been furnished

☐ does not comply with the standard

☐ the tables related to the nucleotide and/or amino acid sequence listing, if in computer readable form only, do not comply with the technical requirements provided for in Annex C-*bis* of the Administrative Instructions.

☐ See separate sheet for further details

Box No. IV Lack of unity of invention

1. ☒ In response to the invitation (Form PCT/ISA/206) to pay additional fees, the applicant has:
- ☐ paid additional fees.
 - ☐ paid additional fees under protest.
 - ☒ not paid additional fees.
2. ☐ This Authority found that the requirement of unity of invention is not complied with and chose not to invite the applicant to pay additional fees.
3. This Authority considers that the requirement of unity of invention in accordance with Rule 13.1, 13.2 and 13.3 is
- ☐ complied with
 - ☒ not complied with for the following reasons:
see separate sheet
4. Consequently, this report has been established in respect of the following parts of the international application:
- ☐ all parts.
 - ☒ the parts relating to claims Nos. 1-40

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

| | | |
|-------------------------------|-------------|------|
| Novelty (N) | Yes: Claims | 2-40 |
| | No: Claims | 1 |
| Inventive step (IS) | Yes: Claims | 2-40 |
| | No: Claims | 1 |
| Industrial applicability (IA) | Yes: Claims | 1-40 |
| | No: Claims | |

2. Citations and explanations

see separate sheet

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

see separate sheet

Re Item IV.

The separate inventions/groups of inventions are:

Claims 1-40

A cast cutter comprising first and second relatively moveable cutting members having inner faces in non-engaging relationship to provide clearance there between.

Claim 41

A switching arrangement comprising a primary a first secondary and a second secondary operating switch wherein the primary operating switch may be activated when at least one of the first and second operating switches is activated.

They are not so linked as to form a single general inventive concept (Rule 13.1 PCT) for the following reasons:

The subject matter of claims 1-40 is related to a cast cutter and a method for removing a cast comprising first and second relatively moveable cutting members having inner faces in non-engaging relationship to provide clearance there between, solving the problem of avoiding entrapment of the cast material between the cutting members during the cutting operation.

The subject matter of claim 42 is related to a switching arrangement comprising a primary, a first secondary, and a second secondary operating switch, solving the problem of safely operating a hand operated device.

The subjects 1 and 2 are not mutually linked by any general inventive concept.

No same or corresponding feature can be found among the groups of claims (1-40) and 41. The especial technical features of the groups of claims (1-40) and 41 solve different and distinct problems which can be approached independently from each other.

There is therefore no technical relationship between the groups of claims (1-40) and 41,

and the inventions defined in the above mentioned 2 sets of claims are not linked by a general inventive concept.

Re Item VIII.

The application does not meet the requirements of Article 6 PCT, because claim 1 is not clear.

It is clear from the description on page 3 lines 3-5, page 12 lines 20-29 and drawings 4-7 that the following feature is essential to the definition of the invention:

the cutting edges are adapted to engage and cooperate to produce shearing forces.

Since independent claim 1 does not contain this feature it does not meet the requirement following from Article 6 PCT taken in combination with Rule 6.3(b) PCT that any independent claim must contain all the technical features essential to the definition of the invention.

Due to this lack of clarity, no final opinion can be given with respect to novelty or inventive step. However, in order to speed up the procedure, we draw your attention to the comments here below, given, without prejudice, on the claims as far as they could be interpreted.

Re Item V.

1 Reference is made to the following document:

D1 : US 5 901 447 A (DUNNING ET AL) 11 May 1999 (1999-05-11)

2 INDEPENDENT CLAIM 1

2.1 **Due to the clarity objection** set out under point VIII, the present application does

not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 is not new in the sense of Article 33(2) PCT.

Document D1 discloses (claims; drawings)

A cast cutter comprising first and second relatively moveable cutting members having inner faces in non-engaging relationship to provide clearance there between.

3 INDEPENDENT CLAIM 40

3.1 **Due to the clarity objection** set out under point VIII, the present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 40 is not new in the sense of Article 33(2) PCT.

Document D1 discloses (claims; drawings)

A method of removing a cast from a patient using the cast cutter of claim 1.